

WEMMH/SB/21 (4/03)

<b>TRANSMITTAL FORM</b> <small>(to be used for all correspondence after initial filing)</small>	Application Number	10/559,095	
	Filing Date	December 1, 2005	
	First Named Inventor	Marianne HOFMANN	
	Group Art Unit	3765	
	Examiner Name	Not Yet Assigned	
Total Number of Pages in this Submission	5	Attorney Docket Number	8312-6

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ENCLOSURES (check all that apply)		
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Remarks		
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm or Individual Name	James M. Durlacher Woodard, Emhardt, Moriarty, McNett & Henry LLP	
Signature	<i>James M. Durlacher</i>	
Date	July 26, 2006	

Certificate of Mailing			
I hereby certify that this correspondence is being telefaxed to the United States Patent and Trademark Office, Commissioner for Patents, P. O. Box 1460, Alexandria, VA 22313-1460 via Telefax No. 671-273-8300 on this date: July 26, 2006			
Typed or printed name	James M. Durlacher, Reg. No. 28,840		
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8312-6:JMD:#41165:ss

Translation

## PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY  
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference <b>04.0635.6.18</b>	FOR FURTHER ACTION	See Form PCT/IPEA/416																
International application No. <b>PCT/EP2004/004932</b>	International filing date (day/month/year) <b>08.05.2004</b>	Priority date (day/month/year) <b>02.06.2003</b>																
International Patent Classification (IPC) or national classification and IPC																		
Applicant <b>BLÜCHER GMBH</b>																		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>4</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (sent to the applicant and to the International Bureau) a total of <u>5</u> sheets, as follows:</p> <p><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____ containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p> <p>4. This report contains indications relating to the following items:</p> <table border="0"><tr><td><input checked="" type="checkbox"/> Box No. I</td><td>Basis of the report</td></tr><tr><td><input type="checkbox"/> Box No. II</td><td>Priority</td></tr><tr><td><input type="checkbox"/> Box No. III</td><td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td></tr><tr><td><input type="checkbox"/> Box No. IV</td><td>Lack of unity of invention</td></tr><tr><td><input checked="" type="checkbox"/> Box No. V</td><td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability: citations and explanations supporting such statement</td></tr><tr><td><input type="checkbox"/> Box No. VI</td><td>Certain documents cited</td></tr><tr><td><input type="checkbox"/> Box No. VII</td><td>Certain defects in the international application</td></tr><tr><td><input type="checkbox"/> Box No. VIII</td><td>Certain observations on the international application</td></tr></table>			<input checked="" type="checkbox"/> Box No. I	Basis of the report	<input type="checkbox"/> Box No. II	Priority	<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/> Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability: citations and explanations supporting such statement	<input type="checkbox"/> Box No. VI	Certain documents cited	<input type="checkbox"/> Box No. VII	Certain defects in the international application	<input type="checkbox"/> Box No. VIII	Certain observations on the international application
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Form PCT/IPEA/409 (cover sheet) (January 2004)

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/004932

Box No. 1 Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language \_\_\_\_\_ which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on (replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-11 \_\_\_\_\_ as originally filed/furnished
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the claims:
- nos. 21 \_\_\_\_\_ as originally filed/furnished
- nos.\* \_\_\_\_\_ as amended (together with any statement) under Article 19
- nos.\* 1-20 \_\_\_\_\_ received by this Authority on 22.03.2005 with letter
- nos.\* \_\_\_\_\_ received by this Authority on of 21.03.2005
- ☒ the drawings:
- sheets 1/5-5/5 \_\_\_\_\_ as originally filed/furnished
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (specify): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (specify): \_\_\_\_\_
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (specify): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (specify): \_\_\_\_\_
- \* If item 4 applies, some or all of those sheets may be marked "superseded."

Form PCT/PEA/409 (Box No. 1) (January 2004)

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY		International application No. PCT/EP2004/004932	
Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	1-20	YES
	Claims		NO
Inventive step (IS)	Claims	1-20	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-20	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
Reference is made to document GB 2 078 491 (D1).			
<p>Document D1, which is considered the closest prior art, discloses (see figures 1 and 2) a hood (2), in particular for a garment (1), preferably for protective and/or military purposes, such as an NBC protection suit or such like, wherein the hood (2) has a peripheral elastic seam (5a) for forming a visual field opening (17), wherein the visual field opening (17) is designed to receive a breathing mask (page 1, right-hand column, lines 65-70) and the seam (5a) lies against the breathing mask when it is in use, from which the subject matter of claim 1 differs in that the on the side of the seam facing the visual field opening a plurality of peripheral sealing elements in the form of elastomeric fibres is disposed, which are permanently joined to the seam and ensure that the breathing mask contacts the seam in a sealing manner.</p> <p>Consequently, the subject matter of claim 1 is novel (PCT Article 33(2)).</p> <p>The problem to be solved by the present invention is therefore understood to be that of ensuring that the</p>			

Form PCT/IPEA/409 (Box No. V) (January 2004)

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/004932

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

transition between the hood and the breathing mask is sealed at least to a large extent.

The solution to this problem, as proposed in claim 1 of the present application, involves an inventive step (PCT Article 33(3)), for the following reasons: to a person skilled in art, the subject matter of claim 1 is not obvious from the prior art, since none of the available documents discloses the sealing elements in the shape of elastomeric fibres.

The same applies to the garments according to the invention (claim 16) and the use according to the invention of the elastic seam having a plurality of peripheral sealing elements in the shape of elastomeric fibres (claim 18).

Claims 2-15, 17 and 19-20 are dependent on claims 1, 16 and 18, respectively, and therefore likewise meet the PCT requirements for novelty and inventive step.